

Attorney Docket # 5183CIP

Serial No. **10/055,090**

Amdt. dated August 26, 2004

Reply to Office Action dated June 10, 2004

REMARKS/ARGUMENTS

The Office Action mailed June 10, 2004 has been reviewed and carefully considered. Claims 1-32 are pending, with Claims 1 and 16 being in independent form. In the present Amendment, Claim 16 has been amended in order to clarify the nature of the present invention.

In the June 10, 2004 Office Action, Claims 1-15 were allowed (for which the applicants thank the Examiner), and Claims 16-32 were rejected under either 35 USC §102(b) as anticipated by, or under 35 USC §103(a) as unpatentable over, *Nygaard et al.* (US 5,758,651). In addition, there was a nonstatutory double patenting rejection of Claims 16-32 over *Battmer et al.* (US 6,428,484).

In response, independent Claim 16 has been amended to recite that the electrodes are implantable in the "temporo-occipital area" inside the body of "a patient or animal". It is believed that amended Claim 16 is patentable over *Nygaard et al.* (and distinct from *Battmer et al.*) for at least some of the same reasons that Claim 15 is patentable over the *Nygaard et al.* (and distinct from *Battmer et al.*); for example, *Nygaard et al.* and/or *Battmer et al.* do not teach or suggest implanting electrodes in the temporo-occipital area inside the body of a patient or animal. Withdrawal of the rejection and the subsequent allowance of amended Claim 16 is respectfully requested.

At least through their dependence on amended Claim 16, which is believed to be in condition for allowance, Claims 17-32 are also believed to be in condition for allowance. Withdrawal of the rejection and the subsequent allowance of Claims 17-32 is respectfully requested.

Respectfully submitted,

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